

MEETING NOTICE

OPEN SPACE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

East Central Wisconsin Regional Planning Commission

COMMITTEE MEMBERS: *DuWayne Federwitz (Chair), Nicholas Kesler, Lee Hammen, Jeremy Johnson, Larry Timm, and Bob Schmeichel*

Place: Virtual

Date: Wednesday, April 13, 2022

Time: 1:30 PM

Meeting Link: <https://meet.goto.com/261878413>

Phone Number: United States: [+1 \(571\) 317-3122](tel:+15713173122)

Access Code: 261-878-413

Please contact the East Central office if you are unable to attend and arrange for an alternate to be present.

AGENDA

1. **Welcome and Introductions**
2. **Roll Call**
 - A. Introduction of Alternates, Staff, and Guests
3. **Approval of Agenda / Motion to Deviate**
4. **Public Comment**
5. **Approval of the Minutes of the January 12, 2022 Open Space and Environmental Management Committee Meeting**
6. **Announcements and Updates**
7. **New Business/Action Items:**
 - A. **Proposed Resolution 19-22:** Authorizing the Commission to enter into an agreement with Calumet, Outagamie, Waupaca, Shawano, and Winnebago Counties to implement the NR-135 Non-Metallic Mining Reclamation Ordinances

8. Informational/Discussion Items

- A. NR-135 Non-metallic Mining Reclamation Program Report and Updates
- B. County Roundtable Discussion (*as time permits*)

9. Establish Time and Place for Next Commission Meeting

- A. ***Open Space and Environmental Management Meeting:*** *The next Open Space and Environmental Management meeting will be Wednesday, July 13, 2022 at 1:30 p.m.*
- B. ***Commission Meeting:*** *The next Commission meeting will be held on Friday, April 29, 2022 at 10:00 a.m. An agenda and meeting materials will be forthcoming.*

10. Adjourn

Any person wishing to attend this meeting or hearing, who, because of a disability, requires special accommodations should contact the East Central Wisconsin Regional Planning Commission at (920) 751-4770 at least three business days prior to the meeting or hearing so that arrangements, within reason, can be made.

DRAFT - MINUTES
OPEN SPACE AND ENVIRONMENTAL MANAGEMENT COMMITTEE
East Central Wisconsin Regional Planning Commission

COMMITTEE MEMBERS: *DuWayne Federwitz, Chair (Waupaca Co.), Nicholas Kesler (Calumet Co.), Lee Hammen (Outagamie Co.), Jeremy Johnson (Menominee County), Larry Timm (Waushara Co.), and Bob Schmeichel, Vice Chair (Winnebago County)*

Date: Wednesday, January 12, 2022
Time: 1:30 P.M.

1. Welcome and Introductions

The meeting was called to order by Chairperson Federwitz at 1:30 p.m.

2. Roll Call - Quorum was confirmed.

Committee Members Present:

DuWayne Federwitz, Chair..... Waupaca County
Nick Kesler..... Calumet County
Lee Hammen Outagamie County
Larry Timm Waushara County
Jeremy Johnson (perm alt. for Elizabeth Moses) Menominee County
Bob Schmeichel, Vice Chair Winnebago County

Committee Members Excused:

ECWRPC Staff and Guests Present:

Melissa Kraemer Badtke..... Executive Director
Scott Konkle Senior Planner
Trish Nau Principal Planner
Mike Zuege..... GIS Manager

3. Approval of Agenda / Motion to Deviate

Mr. Hammen motioned to approve the agenda, Mr. Johnson seconded the motion. The motion passed unanimously.

4. Public Comment - There was no public comment.

5. Approval of the Minutes of the October 13, 2021 Open Space and Environmental Management Committee Meeting

Mr. Hammen motioned to approve the summary of proceedings, Mr. Kesler seconded the motion. The motion passed unanimously.

6. Announcements and Updates

7. New Business/Action Items

A. Approval of the 2022 Work Program & Budget

- i. 1400 recreational Parks Program - Ms. Nau presented the 2022 Recreational Parks Work Program. This portion of the work program is divided into two distinct categories: 1405 which is the Open Space and Environmental Management Committee administration activities and 1433 corresponding to the City of Neenah's Comp Outdoor Recreation Plan- carryover from 2021. Final deliverables due on February 19, 2022.
- ii. 1600 NR 135 Reclamation Mining Program - Mr. Konkle provided a NR-135 Non-Metallic Mining Reclamation Program update and noted the county quarterly updates. Calumet County requested to re-join the consortium. An updated county contract will be developed with an anticipated program transfer in April 2022.

A motion was made by Mr. Timm and a second to the motion by Mr. Hammen. Motion carried unanimously.

8. Informational/Discussion items

A. Open Space and Recreation Planning Activities

- i. Adopted 2021 Comprehensive Outdoor Recreation Plans

B. NR-135 Non-metallic Mining Reclamation Program Report and Updates

- ii. Calumet County Non-metallic Mining Program integration

C. County Roundtable Discussion (*As Time Permits*)

Waupaca – Looking how-to engage personnel-reviewing funds to use 40% ARPA funds to boost economy for long term growth.

Winnebago – Updated Committee regarding new traffic patterns that connect to land surrounding the new school. Working with ECWRPC.

Menominee – We work with limited available funding. Fire Program funding has allowed for upgrades primarily surrounding Legend Lake area. It provides safe passage via widening existing pathways.

Wausara – Had groundbreaking for new courthouse construction

Calumet – Priority being looked at is how-to upgrade the availability of childcare facilities in the area.

Outagamie – New facility being constructed by Plamann park.

9. Establish Time and Place for Next Commission Meeting

A. Commission Meeting: The next Commission meeting will be held January 28 at 10:00 a.m. An agenda and meeting materials will be forthcoming.

B. Open Space and Environmental Management Committee: The next Open Space and Environmental Management Committee Meeting will take place on April 13, 2022 at 1:30 pm. Further details will be forthcoming.

10. Adjourn - Mr. Hammen made the motion to adjourn. The meeting adjourned at: 2:03 p.m.

Any person wishing to attend this meeting or hearing, who, because of a disability, requires special accommodations should contact the East Central Wisconsin Regional Planning Commission at (920) 751-4770 at least three business days prior to the meeting or hearing so that arrangements, within reason, can be made.

TO: Open Space & Environmental Management Committee

FROM: Scott Konkle, Senior Planner

DATE: April 5, 2022

RE: NR135 Non-Metallic Mining Reclamation Program Contract Update with Calumet, Waupaca, Winnebago, Outagamie and Shawano Counties

In November 2021, Calumet County contacted East Central staff to determine if we would consider conducting the administration of their NR 135 Non-Metallic Mining Reclamation Ordinance. East Central Wisconsin Regional Planning Commission (ECWRPC) previously administered Calumet County's Non-Metallic Mining Reclamation Ordinance from 2001 through 2013 and in 2013 the program was transitioned to Calumet County. East Central staff assessed internal capacity to administer the ordinance and met with the Calumet County Land & Water Conservation Committee on November 2, 2021 to discuss the details of a possible program transition to ECWRPC. It was decided by both parties to move forward with the transition.

The original contract governing NR-135 Non-Metallic Mining Program administration with the Counties dates back to 2001, East Central staff thought this was a good opportunity to update the contract with the Counties of Calumet, Outagamie, Waupaca, Winnebago, and Shawano. A few of the revisions to the contract include:

- removing the program “start-up” language,
- removal of the automatic permit section,
- an updated GIS information section,
- added language to the permit transfer section, and
- an update to the terms of the agreement section with regard to members withdrawing from the agreement.

East Central staff provided a draft contract to each of the Counties to review and provide feedback on. No changes to the contract were recommended upon review by the participating Counties. Thereafter, staff informed the Counties that the final contract was ready for approval and the Counties are now in the process of approving the agreement. Following Open Space and Environmental Management Committee's recommendation, we will bring a final contract to the Steering Committee for approval at the April 14th meeting, followed by consideration of the Commission at the end of April. East Central staff anticipates the transition of the program with Calumet County will be effective on June 1, 2022.

Staff Recommendation: Staff recommends that the Open Space and Environmental Management Committee recommend approval of Resolution 19-22: Authorizing the Commission to Enter into an Agreement with Calumet, Outagamie, Waupaca, Shawano, and Winnebago Counties to Implement Wisconsin Administrative Code NR-135 Required, Locally Adopted Non-Metallic Mining Reclamation Ordinances.

**AGREEMENT FOR THE ADMINISTRATION OF CERTAIN
COUNTY-ADOPTED NON-METALLIC MINING RECLAMATION ORDINANCES,
AS REQUIRED BY WISCONSIN ADMINISTRATIVE CODE NR-135,
BY THE EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION**

BASIS OF AGREEMENT

This agreement spells out the terms and conditions for the partial transfer of authority, under Wisconsin State Statutes 59.52, 59.69(2)(d), and 66.0309, from Calumet, Outagamie, Winnebago, Waupaca, and Shawano Counties (County/Counties) to the East Central Wisconsin Regional Planning Commission (Commission) to administer portions of the individual County adopted ordinances as required under Wisconsin Administrative Code NR-135 for regulation and permitting of non-metallic mining reclamation plans. This agreement is entered into based on the following basic provisions:

1. Each County that is part of this agreement has individually adopted, with an effective date of July 1, 2001, a Non-Metallic Mining Reclamation Ordinance (Ordinance):
 - a) The Counties provide adequate notice to the Commission should amendments to the Ordinance be sought after its adoption. Such individual amendments should be considered by all Counties that are part of this agreement in order to foster consistency within the program.
 - b) The Counties shall periodically entertain amendments to the Ordinance as suggested by the Commission during administration of the Ordinance. These changes may be required due to:
 - Fee structures and administrative budget costs.
 - Amendments made to Wisconsin Administrative Code, Chapter NR-135.
 - Response to Wisconsin Department of Natural Resources program audits/reviews.
2. Notice to the Commission of future proposed amendments to other County or local land use plan and ordinance amendments which may affect the Commission's administration of the Ordinance.
3. The Counties agree to provide the Commission, at no cost, the following information in a timely manner while the Agreement is in effect:
 - a) All current information (text, maps, digital files) on existing County and local Land Use Plans and Zoning Ordinances within the County, copies of applicable mining site information (text, maps, digital files), and; copies of regulatory requirements which may have previously been approved by the County or local units of government for the site.

The term "Commission" as used in this agreement when referring to permit issuance actions means one or more staff persons delegated with decision-making authority as outlined by the Commission in resolution form.

AGREEMENT TASKS / RESPONSIBILITIES

Upon adoption of this Agreement and with respect to the individual Non-Metallic Mining Reclamation Ordinances adopted by the Counties, the Commission will conduct the following activities and tasks.

Financial Management / Record-Keeping Activities

The Commission will establish the necessary financial management and record-keeping methods for the administration of the individual Ordinances and Chapter NR-135.

Geographic Information Systems (GIS) / Database Development

The Commission has developed and will maintain the necessary Geographic Information System and database programs to assist in the administration of the non-metallic mining reclamation program. Such programs will include all pertinent mapping and field data collection, Unmanned Aerial System (UAS) operation data, operator contact information, application tracking, permit data, and record-keeping information related to the implementation of the program.

Permit Application / Administrative Procedure Development

The Commission has developed the following materials with input and assistance from the Counties:

- A single application form for submission of new mine reclamation permits.
- An application form for the modification of a permit or reclamation plan.
- An operator's annual report form which contains, at a minimum, the required information set forth in Section 25 of the adopted individual Ordinance.
- Any other written procedures necessary for the coordinated administration of the individual Ordinances and Chapter NR-135.

Additional materials and systems pertaining to the application and permitting process have and will be developed by the Commission as deemed necessary to administer the Ordinance.

Ordinance Defined Responsibilities, Authorities, and Tasks

The essential nature of the services provided herein will involve the Counties contracting with the Commission for staff services related to administering each individual County's Ordinance. Authorities and tasks which are part of the overall NR-135 program requirements, but whose responsibility will remain with the individual Counties, are noted in this section. The Commission will establish additional procedures as necessary to continuously implement the program and to ensure the Counties' compliance with Chapter NR-135. Additionally, the Commission will coordinate all plan reviews and permitting actions with appropriate local and county departments as well as State agencies as necessary.

Mine Reclamation Permits

1. The Commission will accept applications and fees for mine reclamation permits.
2. The Commission will review applications for mine reclamation permit submittals, including a determination of need for a public informational hearing, with respect to the provisions of the Ordinance adopted by the County within which the site lies.
3. The Commission will provide public notice and the opportunity for a public informational hearing as required by the Ordinance for mine reclamation permits. All costs for such hearings will be borne by the Commission. Notices shall be published as a class 1 notice pursuant to s. 985.07(2), Stats., in the official newspaper of the County in which the site resides.

Copies of the notice shall be forwarded by the Commission to the County and the Municipality within which the site lies.

- a) The County or applicable local zoning board.
- b) The County and applicable local planning organization.

- c) The County land conservation officer.
 - d) Owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located. The Counties shall provide the Commission with the necessary property owner information under this section at no cost as needed.
4. If the public informational hearing is conducted as part of a local planning or zoning hearing, a representative of the Commission will attend the hearing and provide information pertaining to the reclamation permit application as necessary. The County or local unit of government shall forward testimony to the Commission for consideration prior to reclamation permit issuance. The County or local unit of government shall bear all costs and responsibilities associated with this type of hearing except the cost of the notice requirement.
 5. The Commission will make determinations on mine permit applications no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit application unless a public informational hearing is held, in which case the decision shall be no later than 60 days after completing the public informational hearing.
 6. The Commission shall affirm in writing its decision whether to approve each submittal and shall have the authority to issue the non-metallic mining reclamation permit.

Expedited Permits

7. The Commission will accept applications and annual fees for “expedited” permits.
8. The Commission will review the “expedited” permit submittals with respect to the provisions of the Ordinance adopted by the County within which the site lies.
9. The Commission shall, upon satisfactory review against the Ordinance criteria, have the authority to issue an “expedited permit” to any transportation related borrow site within 7 days of submittal. The Commission will not collect mine plan review fees, but will charge annual fees for the “expedited” permit.
10. The Commission will inform the applicant, in writing, of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the Commission will return the expedited portion of the fee.

Permit Issuance Authorities

11. The Commission shall have the authority to issue a permit or approve a reclamation plan subject to conditions if needed to assure compliance with the provisions of the Ordinance and Chapter NR-135.
12. The Commission shall have the authority to deny an application to issue a non-metallic mining reclamation permit within the time frame for permit issuance based on criteria set forth in the ordinance and NR-135. The Commission shall make this determination in writing and shall contain documentation of reasons for denial.

Alternative Requirements

13. The Commission will accept an operator’s request for an alternative requirement to the reclamation standards established in the Ordinance.
14. The Commission shall have the authority to approve an alternative requirement to the reclamation standards based on the individual County’s recommendation using the process specified in the Ordinance. A Commission representative will attend county related meetings regarding alternative requirement requests. The Counties may submit costs related to such meetings for payment by the Commission using program

revenues. The Commission may require the applicant to reimburse such cost or a portion thereof based on the Commission's discretion.

15. Upon final decision, the Commission shall transmit the decision related to a request for alternative reclamation requirements in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.
16. The Commission shall provide written notice to the Wisconsin Department of Natural Resources at least 10 days prior to any public hearing on a request for an alternative requirement and shall also provide a copy of any written decision on alternative requirements within 10 days of issuance.

Permit Transfers and Modifications

17. The Commission may transfer any non-metallic mining reclamation permit to a new operator upon submittal of proof of financial assurance and a certification in writing by the new permit holder that they will comply with all conditions of the permit. At the time of transfer, the Commission has the authority to modify permit conditions as further outlined in this section. The Commission will make a written determination of all conditions of the permit needed for compliance for each transfer.
18. The Commission will accept permit modification applications and will review modification requests against the standards contained in the individual County Ordinance and Chapter NR-135.
19. The Commission shall have the authority to modify a non-metallic mining reclamation permit if it finds that, due to changing conditions, the non-metallic mining site is no longer in compliance with Chapter NR-135, Wisconsin Administrative Code, or the individual County Ordinance. Such modification shall be by written order modifying the permit and may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance, or other information needed to ensure compliance with Chapter NR-135.

Financial Assurance

20. The Commission may develop a standard cost index for reviewing the financial assurance needs for site reclamation.
21. The Commission will provide written notification to the operator of the amount of financial assurance as required by the ordinance after reclamation plan review.
22. The operator shall file a financial assurance with Commission, payable exclusively to the Commission. The amount of financial assurance shall equal as closely as possible the cost to the Commission of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan.
23. The amount of financial assurance shall be reviewed annually by the Commission to assure it equals outstanding reclamation costs. Written notification will be provided to the operator by the Commission regarding any necessary adjustments to the financial assurance.
24. The Commission shall, at its discretion, accept a blend of different options for financial assurance including a lien on the property on which the non-metallic mining site occurs or a combination of financial assurance methods.

Permit Suspension, Revocation, Orders and Citations

The Commission will not provide services through this Agreement for the direct enforcement of the Counties' individual Ordinances. The Commission will provide enforcement support by immediately reporting a violation(s) of the Ordinance and NR-135 to the County and/or applicable local unit of government and by providing the necessary information and documentation regarding the violation(s).

25. The Commission will provide a written report and recommendation to the County and/or applicable local unit of government immediately upon discovery of any Ordinance violation. The County, upon recommendation by the Commission, may issue orders, special orders suspending or revoking a permit, or issue citations per their authority.
26. The Commission shall assist the Counties as necessary with respect to contested case hearings, should they arise.
27. Costs incurred by the Counties for enforcement related actions will be covered through the mechanisms defined in the Ordinance.
28. Should the County determine that a permit be revoked, the operator shall forfeit the financial assurance it had provided to Commission. The Commission would then use the forfeited financial assurance to reclaim the site to the extent needed to comply with Chapter NR-135 and the ordinance.

Reclamation Completion

29. The Commission will accept written requests from operators for determination of completed reclamation, shall inspect the site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a certification determination in writing to the operator.
30. The Commission will conduct on-site inspections for completion of site reclamation using quantifiable standards. The Commission shall obtain training and provide their own safety equipment needed to comply with any federal, state, or local laws or regulations controlling persons on the non-metallic mining site.
31. The Commission will prepare a written report of the inspection including necessary documentation.
32. If it is determined that interim or final reclamation is complete, including re-vegetation as specified in the reclamation plan, the Commission shall have the authority to issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site. The Commission has the authority to partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. The Commission will notify each respective County at the time of final certification.
33. The Commission shall be contacted by the operator per the ordinance requirements for any modifications to the financial assurance. The Commission shall review and provide written approval/denial of proposed financial assurance modifications.

Annual Operator Reporting

34. The Commission shall receive and review annual reports from the operators until non-metallic mining reclamation at the site is certified as complete pursuant to the ordinance and Chapter NR-135 or at the time of final release of financial assurance.

35. Annual reports or inspection records submitted under the ordinance shall be retained by Commission for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities.

Fee Establishment

Non-Metallic Mining Reclamation Ordinance Fees have been determined by the Counties and the Commission prior to the signing of this Agreement and are to be consistent amongst the individual Counties' Ordinances. The following tasks relate to the periodic review of the fee structure:

36. Counties shall, along with the ordinance, adopt a separate Fee Schedule by reference, to eliminate the need for public hearings (on an ordinance modification) should the need for fee modifications arise.
37. The Commission will monitor program costs as related to fees and recommend to the Counties adjustments to such fees on an annual basis. The Commission will provide each County an updated fee schedule to reflect program costs on an annual basis and shall make the fee schedule publicly available.
38. The Commission shall annually document in writing its estimated program costs and the need for fees to cover program costs. This documentation shall be available for public inspection at Commission offices.
39. If reclamation has already occurred on portions of a non-metallic mining site, the fees for such portions may be submitted with a request that they be held by the Commission pending certification of completed reclamation. Upon such certification, the Commission shall have the authority to refund that portion of the annual fee that applies to the reclaimed areas. If the Commission fails to make a determination within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.
40. The Commission shall distribute fee shares to the WDNR as required by the Ordinance and Chapter NR-135.

Regulatory Reporting and Documentation.

41. The Commission shall prepare and send a quarterly report to each County and an annual report to the Wisconsin Department of Natural Resources by March 31st containing the required information as identified in the Ordinance and Chapter NR-135 for the previous period's non-metallic mining reclamation program within each County.
42. The Commission shall to the best of its ability maintain the information set forth below and make it available to the Wisconsin Department of Natural Resources for that agency's audit of the Counties' reclamation programs pursuant to Chapter NR-135.
 - a) Documentation of compliance with Chapter NR-135, Wisconsin Administrative Code, and this Agreement.
 - b) The procedures employed by the Commission regarding reclamation plan review and the issuance and modification of permits.
 - c) The methods for review of annual reports received from operators.
 - d) The method and effectiveness of fee collection.
 - e) Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.

- f) Methods for conducting on-site compliance inspections and attendant reports, records, and enforcement actions.
- g) Responses to citizen complaints.
- h) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
- i) The maintenance and availability of records.
- j) The number and type of approvals for alternative requirements issued.
- k) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance.
- l) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of the County or the Commission to implement its non-metallic mining reclamation program under this chapter.
- m) The amount of fees collected in comparison to the amount of money actually expended for non-metallic mining reclamation program administration.
- n) Any other performance criterion necessary to ascertain compliance with Chapter NR-135, Wisconsin Administrative Code.

43. When all final reclamation required by a reclamation plan is completed, the Commission shall have the authority to issue a written statement to the operator of the non-metallic mining site, thereby terminating the reclamation permit.

ADDITIONAL ACTIVITIES

The following activities and their associated costs shall be considered as necessary administrative costs for the purposes of the program fee determination and subsequent fee adjustments.

1. The Commission will provide technical assistance where appropriate to improve compliance with or administration of the Ordinance to the Counties, their local units of government, or non-metallic mining operators within the Counties.
2. The Commission shall also promote the awareness of the Ordinance and its environmental importance through various information and education activities directed at both operators and the general public within the Counties.
3. The Commission may require additional training or continuing education to remain knowledgeable about the non-metallic mining industry and reclamation technologies.

LIABILITY & INSURANCE PROVISIONS

The Commission shall authorize, by resolution, no more than two staff persons that will have the authority to issue permit decisions under this program. Those two staff persons, and the Commission as a whole, shall be covered by appropriate levels of liability insurance as deemed necessary by the effective date of the Agreement, through either the Commission's or Counties' insurance provider.

TERMS OF AGREEMENT

This Agreement shall be effective on _____, 2022 and shall terminate upon one of the following conditions:

1. One or more Counties may end participation in the agreement provided that the Commission and other Counties which are part of this Agreement are notified in writing of the termination at least 120 days (four months) prior to becoming effective. The Commission will work with the balance of the Counties to determine if the program is still feasible with the reduction in participants.
2. If two or more of the participating Counties request termination of the Agreement, the Commission may terminate the Agreement. Written notice of the termination will be made to all Counties at least 120 days prior to becoming effective.
3. The Agreement may be terminated upon the unanimous decision of all Counties which are part of this Agreement and the Commission.
4. The Commission may choose to terminate the Agreement at any time provided that the Commission notifies all Counties in writing at least 120 days (four months) prior to becoming effective.

Modifications and updates to the Agreement may be sought from time to time by one or more of the Counties and/or the Commission. The Commission and the Counties may only make modifications to the Agreement upon the mutual consent of all parties.

Should individual units of government (towns, villages, cities) within these counties develop and adopt their own non-metallic mining reclamation program and ordinance under Chapter NR-135 after the approval of this agreement, the Commission shall defer all responsibilities for activities and authorities under this agreement to the local unit of government for such sites. In doing so, adjustments may be necessary to the fee structure depending on the number of sites removed from the regional program.

Additional Counties may be added to this agreement at a later date subject to the review and approval of all signatories of this agreement. In addition, the Commission shall pass a resolution in order to add any additional Counties to the Agreement.

EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION:

Jeff Nooyen, Chair
East Central Wisconsin Regional Planning Commission

Melissa Kraemer Badtke, Executive Director
East Central Wisconsin Regional Planning Commission

COUNTIES:

Alice Connors, Chair
Calumet County

Jeff Nooyen, Chair
Outagamie County

Tom Kautza, Chair
Shawano County

Dick Koeppen, Chair
Waupaca County

Shiloh Ramos, Chair
Winnebago County

RESOLUTION NO. 19-22

AUTHORIZING THE COMMISSION TO ENTER INTO AN AGREEMENT WITH CALUMET, OUTAGAMIE, WAUPACA, SHAWANO, AND WINNEBAGO COUNTIES TO IMPLEMENT WISCONSIN ADMINISTRATIVE CODE NR-135 REQUIRED, LOCALLY ADOPTED NON-METALLIC MINING RECLAMATION ORDINANCES

WHEREAS, the East Central Wisconsin Regional Planning Commission is comprised of ten counties, of which eight are “member counties”, and;

WHEREAS, Counties have the statutory authority to contract with Regional Planning Commissions to implement and administer county ordinances, and;

WHEREAS, the State of Wisconsin requires Counties to develop and implement a “non-metallic mining reclamation program” based on Wisconsin Administrative Code NR-135, and;

WHEREAS, the Commission has contracted with Outagamie, Shawano, Waupaca, and Winnebago Counties in response to Wisconsin Administrative Code NR-135 to administer the Counties ordinances since 2001,

WHEREAS, a new contract has been prepared and includes administration of Calumet County’s ordinance in addition to the other Counties currently under contract;

THEREFORE, BE IT RESOLVED BY THE EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION

Section 1: That the Commission approves the attached Agreement to administer a regional program for the five County’s non-metallic mining reclamation ordinances;

Section 2: That this approval is contingent upon the approval of the Agreement by the five individual Counties first listed above;

Effective Date: April 29, 2022
Submitted By: Steering Committee
Prepared By: Scott Konkle, Senior Planner

Jeff Nooyen, Chair – Outagamie Co.

Alice Connors, Vice Chair - Calumet Co.

Martin Farrell – Fond du Lac Co.

Dick Koeppen – Waupaca Co.

Jeremy Johnson – Menominee Co.

Donna Kalata – Waushara Co.

David Albrecht – Winnebago Co.

Tom Kautza – Shawano Co.

TO: Open Space & Environmental Management Committee

FROM: Scott Konkle, Senior Planner

DATE: April 5, 2022

RE: NR-135 Regional Non-Metallic Mining Reclamation Program Update

The following noteworthy activities were conducted in the 1st quarter of 2022 for the NR-135 Non-Metallic Mining Reclamation Program:

- The Operator Annual Reports sent out in December were received and processed in the 1st Quarter. This process includes review of the reclamation plans and any changes or updates to the financial assurance amounts and documents;
- The WDNR Annual Report, along with the Department's share of the 2021 Non-Metallic Mining Reclamation Program fees, was submitted in March;
- East Central is moving forward with the transition with Calumet County to administer their NR 135 Non-Metallic Mining Reclamation Ordinance. Staff anticipates the transition of the program with Calumet County to be effective on June 1, 2022;
- The original contract governing NR-135 Non-Metallic Mining Program administration with the Counties dates back to 2001. East Central staff thought this was a good opportunity to update the contract with the counties of Calumet, Outagamie, Waupaca, Winnebago, and Shawano. A few of the revisions to the contract include:
 - removing the program "start-up" language,
 - removal of the automatic permit section,
 - an updated GIS information section,
 - added language to the permit transfer section, and an update to the terms of the agreement section with regard to members withdrawing from the agreement.
- East Central staff provided a draft contract to each of the Counties for their review and feedback. No changes to the contract were recommended upon review by the participating Counties.
- The final contract was sent to the Counties to have them approved by their committees and boards. Staff will bring the final contract to the Steering Committee for approval at the April meeting.



March 15, 2022

Wisconsin Department of Natural Resources
Environmental Analysis & Sustainability Program, EAS/7
P.O. Box 7921
Madison, WI 53707-7921

Dear EAS Department:

Please find enclosed a check totaling **\$17,565.00** for the Department's share of the 2021 Non-Metallic Mining Reclamation Program fees for Outagamie, Shawano, Winnebago and Waupaca Counties. See the attached 2021 Annual Reports for each county.

2021 DNR Annual Fees				
County	Total Permits	Active Acres	Reserve Acres	DNR Fees
Outagamie	45	1364	1661	\$ 4,915.00
Shawano	48	651	880	\$ 4,095.00
Waupaca	44	657	1401	\$ 3,950.00
Winnebago	44	971	1180	\$ 4,605.00
Totals	181	3643	5122	\$ 17,565.00

If you have any questions, please feel free to contact me anytime at (920) 751-4770 or skonkle@ecwrpc.org

Sincerely,

Scott G. Konkle
Senior Planner

CC: Kara Homan – Outagamie Co.
Steve Swanson – Outagamie Co.
Ryan Brown – Waupaca Co.
Jason Synder – Waupaca Co.
Jessica Van Buren – Shawano Co.
Andrew Popp – Shawano Co.
Jerry Bougie – Winnebago Co.
Cary Rowe – Winnebago Co.
Roberta Walls - WDNR

2021 County of Waupaca (5513500000) Nonmetallic Mining RA Annual Report

- 1) Enter data into form.
- 2) Validate form and submit to finalize data entry.
- 3) When mailing a check, please print the form and attach to your check.

Total number of acres approved for mining 135.37 (3)

2058

Number of acres NEWLY approved for mining in the report year

57

Number of open (unreclaimed) acres actively being mined 135.37 (4)

657

Number of acres released from financial assurance pursuant to NR135 subchapter IV 135.37 (5)

14

Number of acres that have been reclaimed and are awaiting release from the financial assurance requirements of NR135 subchapter IV 135.37 (6)

0

Please make sure to enter a value for each textbox in grid. Enter 0 if you have no mines in a category

Size	Count	Rate	Total
1 to 5 acres	14	35	490
6 to 10 acres	5	70	350
11 to 15 acres	7	105	735
16 to 25 acres	5	140	700
26 to 50 acres	8	160	1280
51 acres or larger	2	175	350
Sum of active permits	41		
Inactive permitted mines	3	15	45
		Sum of Fees	3950

Number of alternative requirements granted

0

Nature of alternative requirements granted

Number of permit modifications

2

Nature of any permit modifications

Lateral expansion of site(s).

Number of enforcement actions

0

Nature of enforcement actions (citations, stop work order, etc.)

Number of permits suspended or revoked

0

Reason(s) for suspension or revocation

Number of nonmetallic mining-related hearings

0

Nature of hearings (informational, reclamation, public, contested case, etc.)

Comments

I hereby acknowledge that I am the duly authorized representative of the regulatory authority and that, to the best of my knowledge and belief, the information contained on this form is correct, true, complete and in accordance with the requirements of Wisconsin Administrative Code NR 135.37 and NR 135.39.



Signed Name: Scott Konkle

Date Signed: 2/17/2022 1:20:28 PM

Mail Check to:

Wisconsin Department of Natural Resources
Environmental Analysis & Sustainability Program, EAS/7
P.O. Box 7921 Madison, WI 53707-7921

2021 County of Outagamie (5508700000) Nonmetallic Mining RA Annual Report

- 1) Enter data into form.
- 2) Validate form and submit to finalize data entry.
- 3) When mailing a check, please print the form and attach to your check.

Total number of acres approved for mining 135.37 (3)

3025

Number of acres NEWLY approved for mining in the report year

0

Number of open (unreclaimed) acres actively being mined 135.37 (4)

1364

Number of acres released from financial assurance pursuant to NR135 subchapter IV 135.37 (5)

7

Number of acres that have been reclaimed and are awaiting release from the financial assurance requirements of NR135 subchapter IV 135.37 (6)

0

Please make sure to enter a value for each textbox in grid. Enter 0 if you have no mines in a category

Size	Count	Rate	Total
1 to 5 acres	8	35	280
6 to 10 acres	4	70	280
11 to 15 acres	8	105	840
16 to 25 acres	7	140	980
26 to 50 acres	9	160	1440
51 acres or larger	6	175	1050
Sum of active permits	42		
Inactive permitted mines	3	15	45
		Sum of Fees	4915

Number of alternative requirements granted

0

Nature of alternative requirements granted

Number of permit modifications

0

Nature of any permit modifications

Number of enforcement actions

0

Nature of enforcement actions (citations, stop work order, etc.)

Number of permits suspended or revoked

0

Reason(s) for suspension or revocation

Number of nonmetallic mining-related hearings

0

Nature of hearings (informational, reclamation, public, contested case, etc.)

Comments

I hereby acknowledge that I am the duly authorized representative of the regulatory authority and that, to the best of my knowledge and belief, the information contained on this form is correct, true, complete and in accordance with the requirements of Wisconsin Administrative Code NR 135.37 and NR 135.39.



Signed Name: Scott Konkle

Date Signed: 2/17/2022 1:13:54 PM

Mail Check to:

Wisconsin Department of Natural Resources
Environmental Analysis & Sustainability Program, EAS/7
P.O. Box 7921 Madison, WI 53707-7921

2021 County of Shawano (5511500000) Nonmetallic Mining RA Annual Report

- 1) Enter data into form.
- 2) Validate form and submit to finalize data entry.
- 3) When mailing a check, please print the form and attach to your check.

Total number of acres approved for mining 135.37 (3)

1531

Number of acres NEWLY approved for mining in the report year

11

Number of open (unreclaimed) acres actively being mined 135.37 (4)

651

Number of acres released from financial assurance pursuant to NR135 subchapter IV 135.37 (5)

31

Number of acres that have been reclaimed and are awaiting release from the financial assurance requirements of NR135 subchapter IV 135.37 (6)

0

Please make sure to enter a value for each textbox in grid. Enter 0 if you have no mines in a category

Size	Count	Rate	Total
1 to 5 acres	14	35	490
6 to 10 acres	8	70	560
11 to 15 acres	14	105	1470
16 to 25 acres	5	140	700
26 to 50 acres	2	160	320
51 acres or larger	3	175	525
Sum of active permits	46		
Inactive permitted mines	2	15	30
		Sum of Fees	4095

Number of alternative requirements granted

0

Nature of alternative requirements granted

Number of permit modifications

1

Nature of any permit modifications

Lateral expansion of site.

Number of enforcement actions

0

Nature of enforcement actions (citations, stop work order, etc.)

Number of permits suspended or revoked

0

Reason(s) for suspension or revocation

Number of nonmetallic mining-related hearings

0

Nature of hearings (informational, reclamation, public, contested case, etc.)

Comments

I hereby acknowledge that I am the duly authorized representative of the regulatory authority and that, to the best of my knowledge and belief, the information contained on this form is correct, true, complete and in accordance with the requirements of Wisconsin Administrative Code NR 135.37 and NR 135.39.



Signed Name: Scott Konkle

Date Signed: 2/17/2022 1:09:03 PM

Mail Check to:

Wisconsin Department of Natural Resources
Environmental Analysis & Sustainability Program, EAS/7
P.O. Box 7921 Madison, WI 53707-7921

2021 County of Winnebago (5513900000) Nonmetallic Mining RA Annual Report

- 1) Enter data into form.
- 2) Validate form and submit to finalize data entry.
- 3) When mailing a check, please print the form and attach to your check.

Total number of acres approved for mining 135.37 (3)

2151

Number of acres NEWLY approved for mining in the report year

2

Number of open (unreclaimed) acres actively being mined 135.37 (4)

971

Number of acres released from financial assurance pursuant to NR135 subchapter IV 135.37 (5)

41

Number of acres that have been reclaimed and are awaiting release from the financial assurance requirements of NR135 subchapter IV 135.37 (6)

0

Please make sure to enter a value for each textbox in grid. Enter 0 if you have no mines in a category

Size	Count	Rate	Total
1 to 5 acres	6	35	210
6 to 10 acres	7	70	490
11 to 15 acres	7	105	735
16 to 25 acres	6	140	840
26 to 50 acres	10	160	1600
51 acres or larger	4	175	700
Sum of active permits	40		
Inactive permitted mines	2	15	30
		Sum of Fees	4605

Number of alternative requirements granted

0

Nature of alternative requirements granted

Number of permit modifications

0

Nature of any permit modifications

Number of enforcement actions

0

Nature of enforcement actions (citations, stop work order, etc.)

Number of permits suspended or revoked

0

Reason(s) for suspension or revocation

Number of nonmetallic mining-related hearings

0

Nature of hearings (informational, reclamation, public, contested case, etc.)

Comments

I hereby acknowledge that I am the duly authorized representative of the regulatory authority and that, to the best of my knowledge and belief, the information contained on this form is correct, true, complete and in accordance with the requirements of Wisconsin Administrative Code NR 135.37 and NR 135.39.



Signed Name: Scott Konkle

Date Signed: 2/17/2022 12:59:13 PM

Mail Check to:

Wisconsin Department of Natural Resources
Environmental Analysis & Sustainability Program, EAS/7
P.O. Box 7921 Madison, WI 53707-7921



TO: Kara Homan, Steve Swanson

FROM: Scott Konkle

DATE: March 29, 2022

RE: Outagamie County Reclamation Ordinance Administration Quarterly Report

Dear Mrs. Homan & Mr. Swanson:

Administration of the NR-135 Non-Metallic Mining Reclamation Program for the period of January 1st through March 31st typically involves the processing of the Operator Annual reports and any changes or updates to the financial assurance amounts and documents.

Some noteworthy items for consideration from Outagamie County for this quarter are as follows:

- The WDNR Annual Report was submitted in March;
- Outagamie County's 2021 year end totals resulted in:
 - 45 permitted sites
 - 1364 active acres
 - 1661 acres in reserve
- Staff presented at the North East & East Central Wisconsin County Code Administrators Joint Meeting on March 3, 2022. Topics included financial assurance calculations and collection of drone data in mining.

If you have any additional questions, please feel free to contact me any time at (920) 751-4770 or skonkle@ecwrpc.org.

Sincerely,

Scott Konkle
Senior Planner

CC: Melissa Kraemer Badtke
Kevin Englebert

TO: Jessica Van Buren, Andrew Popp

FROM: Scott Konkle

DATE: March 28, 2022

RE: Shawano County Reclamation Ordinance Administration Quarterly Report

Dear Ms. Van Buren & Mr. Popp,

Administration of the NR-135 Non-Metallic Mining Reclamation Program for the period of January 1st through March 31st typically involves the processing of the Operator Annual reports and any changes or updates to the financial assurance amounts and documents.

Some noteworthy items for consideration from Shawano County for this quarter are as follows

- The WDNR Annual Report was submitted in March;
- Shawano County's 2021 year end totals resulted in:
 - 48 permitted sites
 - 651 active acres
 - 880 acres in reserve
- The updated NR 135 Non-Metallic Mining Program administration contract was placed on the Shawano County Planning, Development and Zoning Committee agenda for April 6, 2022;
- Staff presented at the North East & East Central Wisconsin County Code Administrators Joint Meeting on March 3, 2022. Topics included financial assurance calculations and collection of drone data in mining.

If you have any additional questions, please feel free to contact me any time at (920) 751-4770 or skonkle@ecwrpc.org.

Sincerely;



Scott Konkle
Senior Planner

CC: Melissa Kraemer Badtke
Kevin Englebert

TO: Ryan Brown

FROM: Scott Konkle

DATE: March 28, 2022

RE: Waupaca County Reclamation Ordinance Administration Quarterly Report

Dear Mr. Brown:

Administration of the NR-135 Non-Metallic Mining Reclamation Program for the period of January 1st through March 31st typically involves the processing of the Operator Annual reports and any changes or updates to the financial assurance amounts and documents.

Some noteworthy items for consideration from Waupaca County for this quarter are as follows:

- The WDNR Annual Report was submitted in March;
- Waupaca County's 2021 year end totals resulted in:
 - 44 permitted sites
 - 657 active acres
 - 1401 acres in reserve
- Staff presented at the North East & East Central Wisconsin County Code Administrators Joint Meeting on March 3, 2022. Topics included financial assurance calculations and collection of drone data in mining.

If you have any additional questions, please feel free to contact me any time at (920) 751-4770 or skonkle@ecwrpc.org.

Sincerely,



Scott Konkle
Senior Planner

CC: Melissa Kraemer Badtke
Kevin Englebert



TO: Jerry Bougie, Carey Rowe

FROM: Scott Konkle

DATE: March 28, 2022

RE: Winnebago County Reclamation Ordinance Administration Quarterly Report

Dear Mr. Bougie & Mr. Rowe:

Administration of the NR-135 Non-Metallic Mining Reclamation Program for the period of January 1st through March 31st typically involves the processing of the Operator Annual reports and any changes or updates to the financial assurance amounts and documents.

Some noteworthy items for consideration from Winnebago County for this quarter are as follows:

- The WDNR Annual Report was submitted in March;
- Winnebago County's 2021 year end totals resulted in:
 - 44 permitted sites
 - 971 active acres
 - 1180 acres in reserve
- The updated NR 135 Non-Metallic Mining Program administration contract was placed on the Winnebago County Planning and Zoning Committee agenda for April 8, 2022;
- Staff presented at the North East & East Central Wisconsin County Code Administrators Joint Meeting on March 3, 2022. Topics included financial assurance calculations and collection of drone data in mining.

If you have any additional questions, please feel free to contact me any time at (920) 751-4770 or skonkle@ecwrpc.org.

Sincerely,

Scott Konkle
Senior Planner

CC: Melissa Kraemer Badtke
Kevin Englebert